

The true State of the Case of *Josiah Primatt*, concerning the Collieries of *Harraton* in the County of *Durham*, called the Nine quarter and Five quarter Collieries or a true breviat of the proofs, in the Case as it now depends before the Committee of Parliament.

I. **I**T is proved that there are 4 several Seames or Veines of Cole in *Harraton*, called by the name of the three quarter half yard, five quarter and nine quarter Coles, and that any of those seams that are in work, are called the Colliery of *Harraton*.

II. It is proved that in 1632. the five quarter and nine quarter Coles were demised by the name of the Veines, Mines, or Seams of Cole, called the nine quarter and five quarter Cole, and that several rents were reserved upon the demise for the several Seams, for the one a greater, and the other a smaller rent, and that those Veines of Cole coming then to be wrought, they were afterwards in 1636. demised by the name of the Collieries of *Harraton*, called the nine quarter, and five quarter Cole, Seams and Veines of the same Cole, being also demised in the same lease, that the Lessees might have liberty to sink new pits for the same Cole, and it is proved by the deeds that the nine quarter and five quarter Collieries of *Harraton* were let distinctly by themselves, without the three quarter or half yard Collieries or Seams of Cole.

III. It is proved that *Thomas Lewis*, and *Thomas Levit*, by virtue of mean Assignments of a lease of 41. years, from Sir *John Headworth*, of the Collieries of *Harraton*, and of a particular demise to them of the nine quarter and five quarter Collieries, were in actual possession of the Collieries, called the nine quarter and five quarter Coles in *Harraton*, did work the same in 1639. 1640. 1641, and 1642. and that *Thomas Wrey* did put in a stock in 1641. for working a fourth part of those Collieries, and that in 1642. *Thomas Lewis*, and *Thomas Levit* wrought them alone; *Thomas Lewis*, and *Thomas Levit*, being then Tenants at will to *Josiah Primatt*, to whom they had conveyed their interest in June 1639.

III. It is proved that about 1640. the nine quarter Colliery was drowned and so continued, and that in 1642. the five quarter Colliery was drowned out of the possession of *Thomas Lewis*, and *Thomas*

Levit, who wrought it under *Primatt's* interest; and that both the nine quarter and five quarter Collieries or Seames of Cole did from that time continue drowned and lost until 1647. at which time *George Lilburne* and *George Gray* the younger agreed with *Josiah Primatt* for the working the same, and in 1646 took from him a lease thereof, and with the expence of about 2000*l*. recovered the same to the great benefit of the Common wealth, and they continued working the said 5 quarter and 9 quarter Collieries with great expence, (and at one time 1648. with the loss of 55. mens lives) until about August 1649. And then a great profit being made of those Collieries *Sir Arthur Haslrig*, Col. *Fenwick*, and one Col. *Wren* sequestered the same for the Common Wealths use, under a pretence that the same had been sequestered by *Sir Wil. Armin* in 1644. as belonging to *Thomas Wray* a Papist Delinquent (no title of *Wray* to the same being shown, nor any order for sequestering the same formerly as his, nor any proof made, that any such order ever was made; Col. *Milford* and Mr. *Richard Lilburne*, two of the Committee then entering their dissents to the said Order to be upon record and questioning *Sir Arthur Haslrig's* Authority to sequester.

V. It is proved that *Primatt's* Tenants *George Lilburne* and *George Gray*, Junior, were violently (that is by Souldiers) dispossessed of the said Collieries in 1649. and that their Ginns or Engines also were taken away, and that possession hath been continued by Souldiers ever since.

It doth appear that upon *Primatt's* first complaint to the Committee for compounding of the undue taking away of the said Collieries, he came to a hearing in February 1650. and then *George Gray* the elder of *Harraton*, his testimony was rejected upon the urgent instance of *Sir Arthur Haslrig*, under pretence he had an interest in the Collieries, although he had offered his oath at that instant, that he had no interest therein directly, nor indirectly, and by that means *Primatt* was forced to put in a new Petition, and to send above 200. miles for new witnesses, who coming to London, were examined by Mr. *Cary* by the Committees order, and were detained in Town at *Primatt's* charge a week, that the Soliciters of the Common wealth might cross examine them; & it was ordered March 28. 1651. that after such examinations taken it should be referred to Mr. *Reading* the Common wealths Council to state the case, and report it; and the depositions were published and carryed to Mr. *Reading*, and a day of hearing the case was set.

But *Primatt's* Title and possession appearing to be proved, it was then ordered that Mr. *Wray* the Papist delinquent, to whom *Sir Arthur Haslrig* pretended those Collieries did belong, should be sent for to be at hearing to produce his Deeds and Evidences, *Sir Arthur* having for a yeare and a half denied to shew any Title; and after long delay Mr. *Wray* coming, and producing his Deeds to Mr. *Brereton*, one of the Commissioners Councell, it was not thought fit that he should shew them; but by the consent of four of the Commissioners gets an order after *Primatt's* witnesses depositions were published, that he should have time to examine witnesses in the County of *Durham*, which is con-

contrary to the course of proceedings in all other Courts of Justice, delayed Mr *Primates* hearing neer 6 months, and lost the whole Summer, wherein he should have wrought the Collieries.

It appears after *Wrayes* examination of all his witnesses, that he hath not examined one witness about the Collieries in question, by name as they were claimed by *Primates* petition by the name of the Nine Quarter, or Five Quarter Collieries, or Seams of Cole in *Haratton*, but examines concerning the Colliery at *Haratton*, by that dubious uncertain word intending to comprehend all the 4 distinct Collieries of *Haratton*, although it was granted by *Primate* that *Wray* the Papist delinquent had the possession of the three Quarter and halfe yard Collieries, in 1642, 43, an 44.

The Pretence of Sir *Arthurs* taking away the Nine and Five quarter Collieries being onely that the State had possession of them in 1644, being then (as he said) sequestred by Sir *Wil. Armys*, as Mr. *Wrayes*, yet by all the witnesses examined by *Wray*, tis deposed, That *Wray* was in possession of the Colliery of *Haratton* from 1642, to 1647.

Onely tis proved, That in 1645. the Committee of *Durham* ordered, That if any of the creditors of *Wray* would undertake to work the Colliery of *Haratton* for the payment of *Wrayes* debts, they should have a lease of it for a year.

But Mr. *Wrayes* witnesses agree, That the Five Quarter and Nine Quarter Collieries were lost and drowned out of the possession of Mr. *Lewis* and Mr. *Levit*, under whom *Primate* claims the one about 1640. and the other about 1647, and that not a coal was wrought out of either of those Collieries from 1642 to 1647. when Mr. *Lilburne*, and Mr. *Gray*, *Primates* Tenants, wone and wrought the same with great expence, onely they say that *Wray* in that time sunk two pits, and pursued the working of the main Coal; but wrought not above 15 yards into the earth in three years time. But in November last Sir *Arthur* brought Mr. *Roe*, after a full hearing of the case, who testified that in 1644. he by Sir *William Armys* direction ordered one *William Fenwick* to work the same Colliery of *Haratton* that was then wrought for the Parliaments use, Mr. *Roe* not knowing the distinction of the Collieries, and that they took away all the coals upon the *Seathes* as *Wrayes*, and the same *William Fenwick* examined by *Primate* in March last saith, That in 1644. there was no coals upon the *Seathes* at *Haratton*, but what was gained and wrought by him, and one *Maddison* out of the three Quarter coal, and that being onely in work, was called the Colliery of *Haratton*, and that the Five quarter and Nine quarter coal lay drowned and unwrought from 1642 to 1647.

Thus it appears by consent of witnesses, that the Five quarter and Nine quarter Collieries were in the actual possession of *Lewis* and *Levit*, under whom *Primate* claims in 1640 and 1647, when the Nine quarter Colliery was drowned, and the other in 1641 and 42, when that was drowned, and the State nor any other coming into any actual possession to dispossesse *Primate* from 1642 to 47.

The legall possession continued in *Primate* when they lay drowned

and he by his Tenants only regained the Actual possession of them in 1647. and wrought them untill 1649. that *sir Arthur* took them away.

Only it may be objected that *Primat* agrees by his Petition, that *Wray* had a fourth part of those collieries, and therefore the State ought to have had a share in working is, and *sir Arthur* might Sequester a fourth part.

'Tis answered, that it is proved, that by the custom of collieries, if there be several Partners that have Interest in a collemine, if the other Partners refuse or neglect to adventure their shares of moneys to win and work it, any one of the Partners may at his own charge and hazard, win and work it, and none of the other Partners shall enjoy their shares after it be won, untill they have paid upon account their share of the charge expended in winning the same and put in their share of stock to work it, and the Law requires the same also where there are several tenants in common to plow'd grounds, &c. The Deeds of *Wray* brought up by the Commissioners Orders to be read at hearing, although brought up and shown to the Commonwealths Councell are now concealed, and in all the Examinations no Title at all of *Wrays* appearing, and the possession being proved to be as before, it is submitted to Judgment whether the violent dispossession of *Primat*, without proof either of the States prime possession, or of any Title under which the State can claim, the pretences of proofs of any thing now alledged, not being then in 1649. but being taken in 1651. and the keeping possession from him above 2 years, and contrary to Law, forcing him by special pleading to shew his Title, whether this without any other circumstances, be not grievous Oppression, and whether if the like should be done generally, the Foundations of Property were not subverted, and no man secure in the bed he lies upon.

Now the circumstances of *sir Arthurs* doings in this case, as they appear upon proof are these.

I. It is proved that *Sir Arthur Hasleig*, Col. *Fennick*, and Col: *Wren* made the Order to sequester the said Collieries,

eries, Col. *Milford* and Mr. *Richard Lilburn* entring ther
dissents to be upon record against it, and drawing up their
reasons against it, and carryng them to the Committees Clark
to be entred.

II. That the Order for Sequestration was made by Sir *Arthur Haslrig*, and the other two asorenamed, contrary to
the resolve of the whole Committee, which was, that no
order should be made, in the case until the whole Com-
mittee had conferred about it.

III. That upon the difference in the debate about the said
Sequestration; Sir *Arthur Haslrig* being high and violent
for sequestering it, Mr. *Richard Lilburn* questioned his Au-
thority to sequester, & desired to know whether he were of
the Committee for sequestrations, and Sir *Arthur* would
not or could not then produce any Authority from Parlia-
ment for his being of the Committee for sequestrations
there.

IV. That the State of the case about the said sequestrati-
on (which was certified to the Commissioners for compoun-
ding) was privately drawn by Sir *Arthur Haslrig* (and the
Clark of the Committee beleeves Col. *Fenwick*) and that
without any order of the Committee, and that it was
brought to the Clark by Sir *Arthur Haslrig*, and the Clark
commanded to enter it, and that it was afterwards subscri-
bed by Col. *Fenwick* and Col. *Wren*.

V. That contrary to the course of the Committee in all
other cases, wherein the Clark of the Committee took and
kept all depositions, the depositions taken in that case were
taken by Sir *Arthur Haslrig*'s own Secretary, and kept by
him, and were never since to be heard of, though several
orders were sent to the Committee of *Durham* to certifie all
they knew, or was upon record in the case.

VI. That though the Collieries in question had been after
the War regained by *Primats* Tenants, and wrought from
1647, to 1649. by Sir *Arthur*'s confession, yet Sir *Arthur*
sequestred them without shewing any title, of *Wrays* to
them, under pretence of whose title he sequestred them, and
when

when *Wrey* offered at the Committee to shew what title he had, Sir *Arthur* would not suffer him to speak, or shew any deed, saying, with an outstretched hand, hold your peace, and shew no deed, if you do, *It shall be never the better for them, but the worse for you*, for I know how to deal with you.

This is the evidence as to Sir *Arthur's* procuring Col. *Fenwick*, and Col. *Wren*, to joyn with him to sequester the Collieries.

And as to *Primat* being violently dispossessed, it is proved that in pursuance of the sequestration ordered, ten Souldiers did take away the possession of the Collieries, and that it hath been kept by the Souldiers, sometimes more, sometimes fewer ever since, and that the Gins and Engins also were taken away by the Souldiers, and that lately the now Committee for sequestrations there denied that they sent or gave any order for souldiers to come.

But as to Sir *Arthur's* overawing the Commissioners for compounding, and by his power and influence causing delays and denials of justice by them.

The Witnesses examined say, as followeth.

That when *Primatt* had brought up his witnesses 200. miles to prove that Sir *Arthur* and Col. *Fenwick* were not sworn Committee men for *Durham*, and that by the Ordinance of Parliament of May 27. 1644. no man might intermeddle in sequestrations until he had taken the oath therein specified, and when he offered Interrogatories to the Examiner for that purpose, the Examiner, and then the Commissioners for compounding, refused to suffer *Primatt* to examine his witnesses to those Interrogatories.

That after *Primatt's* witnesses depositions were published, and the case ordered to be heard, upon several peremptory daies, *Wray* had many months time given him to examine witnesses against *Primatt*.

That the first complaint of *Primat*, wherein Sir *Arthur Haslrig* was not mentioned, Sir *Arthur Haslrig* appeared with much violence upon all occasions against *Primat* in the case.

That

That in *February* 1650. upon a hearing *Primatt's* chief testimony was rejected upon *[Sir Arthur Haslrig's]* urgent motion.

That in the last hearing of the case in *November* last, *Sir Arthur Haslrig* undertook the pleading of the case against *Primat*, and pleaded more then all the counsel on both sides.

That *Sir Arthur's* carriage and language was very high and earnest, such as the witnesses never saw in a Member of Parliament.

That he often interrupted *Primats* Counsel, though *Mr. Moyer* the Chairman, and *Mr. Barners* prayed *Sir Arthur* that *Mr. Primats* Counsel might be heard, and *Sir Arthur* seemed displeased with the Commissioners by knitting of his browes, and again and again many times urged that he spake for the State, that *Mr. Russel*, *Mr. Winslowe*, *Mr. Squib*, and *Mr. Mellins*, did adhere to *Sir Arthur*, as if they had been Parties, and did seem to affect any thing said by *Sir Arthur*, but *Mr. Moyer* and *Mr. Barners* shewed their dislike of his carriage by lifting up their eyes and hands.

That *Sir Arthur* again and again urged the Commissioners to keep Possession of the Collieries for the State, and to turn over *Mr. Primat* to the Law if he hath any Title, and this said often, though *Primats* Counsel prayed him that he would not prejadg the case, and told him he was no Judge there; and an understanding Witness said that he should have thought if he had been of a subordinate Court, that *Sir Arthur* being a Member of Parliament, and carrying himself as he did, had come purposely to overaw him, though he could not say the Commissioners were overawed by him.

That after 2 days spent in the Hearing, and as the Witnesses apprehended nothing appearing for *Wrayes* Title, under which pretence *Sir Arthur* Sequestred the Collieries, and had kept them 2 years, then *Sir Arthur* urged earnestly and zealously that the Commissioners ought to keep the Possession for the State, because he said one *Morley* a Delinquent, had a Title to it, and *Sir Arthur* pleaded and pressed

(8)

sed as much for *Morleys* Title (which was never mentioned or heard of before that day) as he had done before for *Wrayes*.

That as *sir Arthur* pressed, so was judgement given agreeable punctually to his desires, though after much private debate among the Commissioners; they at first voted otherwise on behalf of *Mr. Primate*, yet all those votes were ordered by the major part, to be rased out of the book again, and although *sir Arthur Haslrig* or the States Agents endeavoured to prove, that in 1648. *George Lilburne* and *George Gray* got *Wrays* deeds & evidences from him, yet it is proved by *sir Arthur's* own certificat, that *Wray* in September 1649. stood ready in open court with his evidence in his hand, ready to make his title good to the whole Colliery, and also it is proved that *Mr. Brereton* the States Council had the perusal of *Mr. Wrays* deeds in the year 1651.

Now whether it may be judged by all these circumstances that the Commissioners were overawed by *sir Arthur*, or directed by him is, humbly submitted to judgment.

Note that *sir Arthur* pretends that he hath been for the Commonwealths profit, and the Collieries are worth above 5000. pounds *per annum*, and yet it doth not appear, that in two years time, there hath been one penny paid to the publick Treasury for them.

FINIS.
